

SUBSIDIARY LEGISLATION

MINES AND MINERALS (CLAIMS) REGULATIONS

under s. 128

G.N. 35/1981

103/1988

1. Citation

These Regulations may be cited as the Mines and Minerals (Claims) Regulations.

2. Limitation on number of claims

A person may peg not more than three claims in respect of each non-exclusive prospecting licence held by him.

3. Shape, etc., of claim area

(1) A claim area shall, as nearly as circumstances permit, be in the shape of a rectangle.

(2) A claim area shall not exceed, in dimension, two hectares.

4. Mode of taking possession of a claim

(1) Any person pegging a claim shall, before lodging an application for registration thereof, erect—

(a) at one corner of the area claimed a beacon, as defined by subregulation (3), which shall be known as the “location beacon” and shall bear the following information, namely—

(i) the length and width of the area claimed in metres; and

(ii) the magnetic bearings of the boundary lines forming the corner at which the location beacon is erected; and

(b) at each of the remaining corners of the area claimed a substantial post or cairn of stones projecting at least one metre above the ground on which shall be clearly and indelibly marked the initials of the person pegging the claim and the date of pegging, and shall cut at each corner of the area claimed two trenches each not less than 3 metres in length and 30 centimetres in depth along the boundary lines forming each corner of the area claimed.

(2) The location beacon and corner posts or cairns and trenches shall be maintained in good order and condition by the holder of the claim during the time that the claim is held.

(3) A location beacon shall consist of a post not less than 2 metres long, and not less than 10 centimetres in diameter or 7 centimetres square, supported in an upright position by a mound of stones not less than one metre high and not less than one metre square at the base. When stones are not available earth may be used. A board or metal plate not less than 30 centimetres square shall be securely attached to the post and placed so as to face inward, and shall bear in painted characters the following information—

(a) the name of the applicant, and the company, syndicate or person represented, if any;

(b) the date of the erection of the beacon;

(c) the number of the non-exclusive prospecting licence of the applicant; and

(d) the magnetic bearing of the sides converging at, or passing through, the beacon.

5. Mode of application

(1) Any person desiring to register a claim shall sign an application in Form I in the First Schedule in triplicate.

(2) The application shall be forwarded or produced to the Commissioner together with—

(a) a fee of K5; G.N. 103/1988

(b) the rent payable; and

(c) a plan in triplicate giving the dimensions in metres of the area of the claim to be registered and as full particulars and measurements as possible to enable the area to be located on the general maps of the district,

within thirty days after the claim is pegged.

(3) The Commissioner shall record on the application the date and time of its receipt by him.

6. Registration

Subject to the provisions of the Act, if the approval of the Minister has been obtained, the Commissioner shall, if satisfied that the application is in order, issue a claim in Form II in the First Schedule and shall register the claim in the manner prescribed in these Regulations.

7. Number of claims to be posted

On receiving notification of the registration of the claim and of the official number thereof, the holder of the claim shall clearly paint and keep painted during the period of the claim that number on the location beacon of the claim.

8. Priority of application

If application is received for the same area or for overlapping areas from two or more persons, priority of claim shall be determined by reference to the time the application was received in proper form by the Commissioner, the area having been duly and correctly beacons.

9. Application for renewal

(1) Application for the renewal of a claim shall be made by delivering the claim issued in Form II in the First Schedule together with the prescribed rent and a statement of the kind mentioned in regulation 23 (1) to the Commissioner not more than two months, nor less than one month, before the claim is due to expire.

(2) Where an application for the renewal of a claim has been duly made but the holder of the claim has not been notified as to whether his application is allowed before the date on which the claim would, but for this regulation, expire, the holder may continue his prospecting and mining operations unless and until notified that his application has been disallowed.

(3) The renewal of a claim runs from the date on which the claim would have expired if not renewed.

(4) The renewal of a claim shall not operate as a waiver of any breach of, or non-compliance with, any of the conditions or requirements of the Act or the Regulations.

10. Suspension of work

(1) The holder of a claim or a person duly authorized by him may apply to the Commissioner for the suspension or partial suspension of operations, and the Commissioner may allow or refuse to allow the application.

(2) An application shall be in Form III in the First Schedule, in duplicate, and a certificate of suspension shall be in Form V in the First Schedule.

(3) The Commissioner may grant a renewal of a certificate of suspension for such period as is endorsed on the certificate.

(4) The holder of a claim shall keep posted conspicuously within the claim area the certificate of suspension during the period of suspension.

11. Ground in excess

When any person has pegged more ground than he is entitled to, any other person may peg such ground on any side of the claim area, provided that no shaft is interfered with.

12. Taking forcible possession of claim

Any person taking forcible possession of the whole or any part of a claim area or commencing to work the same when his right to take possession thereof or to work the same is in dispute—

(a) is liable to forfeit all right and title to possession of the claim; and

(b) is guilty of an offence and liable to a fine not exceeding K100.

13. Obligations on abandonment

(1) Any person who abandons his claim shall forthwith notify the Commissioner of the abandonment.

(2) Any person who abandons his claim or whose claim expires or has been forfeited—

(a) shall forthwith fill up, fence or secure to the satisfaction of the Commissioner or an authorized officer all shafts, pits, holes and excavations in such manner as to prevent persons or stock inadvertently entering them; and

(b) shall remove all location beacons and all boundary posts thereon.

(3) Any person who fails or neglects to comply with subregulation (2) is guilty of an offence and liable to a fine not exceeding K250 or to imprisonment for a term not exceeding six months, and in addition shall be liable to pay such sum as the Commissioner may certify to be the estimated cost of ensuring compliance therewith.

14. Transfer of whole claim

(1) The holder of a claim may, in Form VI in the First Schedule, transfer the same, and the transferee shall, within thirty days of the date of the transfer, apply to the Commissioner for registration of the transfer, submitting Form VI in triplicate and, on payment of the prescribed fees, the Commissioner shall register the transfer in the Register of Claims kept pursuant to regulation 19.

(2) When a claim is transferred, the transferee shall, within thirty days of registration of the transfer, cause his name to be clearly painted on the location beacon of the claim in place of that of the former holder and shall maintain the same during the time that he holds the claim.

15. Transfer of share in claim, etc.

(1) The holder of a claim may divide his interest in the claim into such shares as he shall think fit, and may, subject to this regulation, allot shares or create or transfer any interest therein.

(2) The holder of a claim shall apply for the registration of any such transfer, allocation or interest with the Commissioner by submitting Form VII in the First Schedule to the Commissioner within thirty days of the transfer, allocation or division concerned.

(3) Where any interest in a claim rests in or devolves upon any person by way of testamentary disposition or otherwise (whether absolutely or as security only), that person shall within thirty days thereafter register the interest with the Commissioner.

(4) When a share in a claim is transferred, the transferee shall, within thirty days of registration of the transfer, cause his name to be clearly painted on the location beacon of the claim in addition to those of the other holders of shares and shall maintain the same during the time that he holds any share in that claim.

16. Miscellaneous provisions with respect to transfer of claims

(1) The Commissioner may, for good and sufficient reason, extend the period of thirty days within which an application is required under regulation 14 or 15 to be made, on payment of the appropriate additional fee.

(2) The Commissioner may refuse to register the transfer of a claim, or of any rights or interest thereunder, to any person to whom the issue or renewal of a prospecting right could be refused under the Act or these Regulations.

(3) The transferor shall be liable for compliance with the requirements of the Act and these Regulations, and for the payment of fees, until the transfer is effected, and then such liability shall pass to the transferee.

17. Amalgamation of claims

(1) The Commissioner may permit the amalgamation of adjoining claims of the same class so that the total working obligation on each of the claims so amalgamated may be performed on any one

or more claims, and so that the prescribed return may be an aggregate in respect of all such amalgamated claims.

(2) An application to amalgamate claims shall be made in Form III in the First Schedule, in duplicate, to the Commissioner who may on payment of the prescribed fees give to the applicants a certificate of amalgamation in Form IV in that Schedule.

18. Survey

The Commissioner may, if satisfied that a survey is necessary for the prevention of differences as to the boundaries of the land or for securing a proper definition of the area included or to be included in any claim, give notice to the applicant or the holder requiring the land to be surveyed and a plan approved by the Commissioner for Lands to be submitted.

19. Registration

(1) The Commissioner shall keep a Register of Claims and of documents assigning or transferring the same or any right, title or interest thereunder.

(2) The Commissioner shall file in the Register of Claims a copy of every claim.

(3) Any person desiring to register any document assigning, transferring or surrendering any claim or any right or interest under the same, shall send the original document with two copies thereof and two copies of any plan attached to the document, together with the prescribed fee, to the office of the Commissioner with a request that the same shall be registered.

(4) The Commissioner having first satisfied himself that the copy of the original document and of the plan (if any) is correct and that the requisite approval of the assignment, transfer or surrender has been obtained, and that the document if liable to stamp duty has been duly stamped, shall endorse on the document over his signature the word "Registered" together with the date on which the document was presented for registration and shall return the document so endorsed to the person who shall have presented the same for registration and shall file a copy in the Register of Claims.

(5) The Commissioner shall, upon request and on payment of the prescribed fees, allow searches in a Register of Claims at all reasonable times, and furnish copies of or extracts from any entry in such Register.

20. Notice of grant, etc., of claim

Notice shall be given by the Commissioner in the Gazette of the grant, cancellation or surrender of a claim.

21. Non-resident holder of claim to appoint attorney

Every holder of a claim when not resident in Malawi shall appoint and have at all times when not so resident an attorney who is resident in Malawi and who has full powers to represent the holder in

all matters relating to the claim; the holder shall, as soon as possible after making such an appointment, send to the Commissioner for his retention a copy of the power of attorney and of any document by which the power of attorney is altered.

22. Accounts to be kept by the holder of a claim

There shall be kept, at the principal office within Malawi of the holder of a claim, accurate and regular accounts containing full particulars of all minerals obtained under the claim, and the manner in which they have been disposed of, and a record of the number of persons employed in mining operations in the claim area.

23. Returns to be furnished

(1) On or before the 30th September in each year every holder of a claim shall send to the Commissioner a written statement in duplicate setting forth—

- (a) the name of the holder;
- (b) the date and number of the claim;
- (c) any change which may have been made in the appointment of the attorney, and, in the case of a company, in the officers of the company, during the preceding 12 months;
- (d) the nature of the operations being conducted in the claim area;
- (e) the average number of persons employed in the area in mining or prospecting during the preceding 12 months;
- (f) the amount paid in wages to persons actually engaged in mining or prospecting operations in the claim area or in supervising such operations during the preceding 12 months, and the amount of wages paid;
- (g) the nature and value of any machinery or plant brought on to or removed from the claim area since the previous return;
- (h) the kind and quantity of minerals obtained during the preceding 12 months and the manner in which they have been disposed of; and
- (i) particulars of the occurrence of the death of, or any accident to, any of the persons mentioned in paragraph (f) during the preceding 12 months,

and shall furnish any further particulars relating to the foregoing that the Commissioner may require.

(2) The Commissioner may demand that, as soon as circumstances permit after the date of renewal of a claim, a written statement in duplicate showing the working costs of the mining or prospecting operations in the claim area during the preceding year shall be sent to him by the holder of a claim.

(3) The statements required by this regulation shall be signed and certified to be correct—

(a) in the case of an individual holder resident in Malawi, by the holder; or

(b) in the case of an individual holder not so resident, by the duly appointed attorney of the holder.

24. Titles to be produced when demanded

The holder of a claim shall produce his title whenever demanded by any officer of the Department of Lands or by any District Commissioner.

25. Fees and rent

(1) The fees set out in the Second Schedule shall be paid in respect of the matters and things specified in that Schedule.

(2) The holder of a claim shall pay rent of K30 for every year or part of a year ending on the 31st March. G.N. 103/1988

(3) The rent payable under subregulation (2) is payable in advance to the Commissioner without demand and is in addition to any royalty payable.

FIRST SCHEDULE

FORMS

FORM I

MINES AND MINERALS ACT

APPLICATION FOR REGISTRATION OF A CLAIM

(regulation 5)

To the Commissioner for Mines and Minerals—

Please register the Claim or Transfer mentioned in the following particulars:

Name, nationality and address of applicant No. and date of non-exclusive prospecting licence Kind of Claim to be registered Date when Claim was pegged Locality of Claim

I hereby declare the above to be true in every particular.

Dated the day of, 19.....

.....

Signature of Applicant

Received the above application this day of
....., 19..... ata.m./p.m.

.....

Commissioner for Mines and Minerals

FORM II

MINES AND MINERALS ACT

CLAIM

(regulations 6 and 9)

No.

THE EXCLUSIVE RIGHT, subject to the provisions of the Mines and Minerals Act, and of the Regulations thereunder now in force or which may come into force during the continuance of this claim or any renewal thereof, from the day of, 19..... to the 31st day of March, 19....., IS HEREBY GRANTED to

(here insert name, address and description of claim-holder)

of to prospect and mine for within the area described on the application for registration of this claim and on the plan attached thereto.

Rent: K10 No. of

This day of, 19.....

.....

Commissioner for Mines and Minerals

FORM III

MINES AND MINERALS ACT

APPLICATION FOR (1)AMALGAMATIONSUSPENSION OF WORK

(regulations 10 and 17)

To the Commissioner for Mines and Minerals—

We, the undersigned, being the owners of (2)
..... claims adjoining Nos. (3) and situate at

..... in the
..... District hereby

apply for permission to (1) amalgamate the said.....suspend work on

Dated the day of, 19.....

Registered Nos. (3) Titles (3) Reasons for which (1) is desired Amalgamation Suspension of work

.....

Signature of Applicants

(1) Strike out whichever is inapplicable.

(2) State how many adjoining claims.

(3) State serial title numbers in register.

FORM IV

MINES AND MINERALS ACT

CERTIFICATE OF AMALGAMATION OF CLAIMS

(regulation 17)

No.

I CERTIFY THAT I have this day amalgamated the
..... Claims Nos. respectively, held by
..... and situate at
.....

Dated the day of, 19.....

.....

Commissioner

for Mines and Minerals

FORM V

MINES AND MINERALS ACT

CERTIFICATE OF SUSPENSION

(regulation 10)

No.

I CERTIFY THAT suspension of work on the Claim No. at
..... held by is allowed until the
..... day of, 19.....

CONDITIONS

(here set out the conditions, if any)

Dated the day of, 19.....

.....

Commissioner

for Mines and Minerals

FORM VI

MINES AND MINERALS ACT

TRANSFER OF CLAIM

(regulation 14)

I,, of in consideration of
..... do hereby transfer to him my claim No.
..... subject to all and singular the terms and conditions under which the
said claim has been held by me and I, of
....., do hereby accept the said subject to the terms
and conditions aforesaid.

Dated the day of, 19.....

....., Transferor

....., Transferee

Witness

Address

.....

FORM VII

MINES AND MINERALS ACT

TRANSFER OF SHARE IN CLAIM

(regulation 15)

I, of in consideration of paid to me by of do hereby transfer to him a share in Claim No. situate at (locality of claim) subject to all and singular the terms and conditions under which the said claim or share therein has been held by me, and I, of do hereby accept the said share subject to the terms and conditions aforesaid.

Dated at this day of, 19....

....., Transferor

....., Transferee

Witness

Address

.....

SECOND SCHEDULE

FEES

(regulation 25)

KFor the registration of any document in the office of the Commissioner for Mines and Minerals2Certificate of amalgamation of claims5Certificate of suspension of working conditions of claim5For search in register, for every half-hour or part thereof5For copy of or extract from any registered document, for every folio (A4 size)2